

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P.No.17752 of 2018
& WMP No.21019 of 2018

J.Balakumar

.. Petitioner

Vs.

1. The Chairman and Secretary to Government,
Transport Department,
Fort St. George, Chennai-600 009

2. The Managing Director,
Tamilnadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem -636 007

.. Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to pay the payment of unearned leave on private affairs amount and difference amount of encashment of earned leave, arrears in gratuity with interest at 24% p.a. to the petitioner within a fixed time frame.

For Petitioner ... M/s.S.Sowmiya for
M/s.T.Pappaiah Dharmarajan

For Respondents .. Mr.J.Pothiraj, Spl.GP for R1
M/s.Rajeni Ramadoss for R2

ORDER

Today, when the matter is taken up for hearing, M/s.Rajeni Ramadoss, learned counsel appearing for the respondent Corporation would submit that on earlier occasion, the petitioner has approached this Court with the same prayer in W.P.No.12357 of 2018 & WMP.No.14500 of 2018. By order, dated 19.02.2019, this Court, dismissed the said writ petition for non prosecution on the ground that no one appeared on behalf of the petitioner on two occasions. The learned counsel would further submit that without disclosing the dismissal of the said writ petition for non-prosecution, the present writ petition has been filed. Therefore, this writ petition has to be dismissed on the

ground of suppressing of material fact and also the same is not maintainable on the ground of res-judicata.

2. This Court is in full agreement with the arguments advanced by the learned counsel appearing for the respondent Corporation that the petitioner has now approached this Court reiterating the same cause of action as that of earlier writ petition which was dismissed for default on 19.02.2019. Unfortunately, without disclosing the said fact the present writ petition has been filed by a different counsel.

3. In view of the above, this Court is of the view that the petitioner has deliberately attempted to abuse the process of this Court in order to obtain orders for the same writ petition which was earlier dismissed for non-prosecution. Therefore, this Court is constrained to dismiss the present writ petition as not maintainable with cost of Rs.5000/- to be payable by the petitioner to the Tamil Nadu State Legal Service Authority, High Court Buildings, Chennai-104, within a period of two weeks from the date of receipt of a copy of this order. In case, cost has not been paid by the petitioner, the Tamil Nadu State Legal Services Authority is entitled to proceed against the petitioner. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

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To

Sub Assistant Registrar

1. The Chairman and Secretary to Government,
Transport Department, Fort St. George, Chennai-600 009
2. The Managing Director,
Tamilnadu State Transport Corporation(Salem) Ltd.,
12, Ramakrishna Road, Salem -636 007
3. The Secretary,
Tamil Nadu State Legal Service Authority,
High Court Buildings, Chennai-104

+1 cc to M/s.S.Rajeni Ramadoss, Advocate, S.R.No.68627
+1 cc to M/s.T.Pappaiah Dharmarajan, Advocate, S.R.No.68135
+1 cc to the Government Pleader, S.R.No.68965

W.P.No.17752 of 2018

GP(CO)
SSM(16/10/2019)